UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,614	11/26/2003	Ronald S. Karr	5760-09200	7091

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EXAMINER
TSAI, SHENG JEN

ART UNIT	PAPER NUMBER
2186	

MAIL DATE	DELIVERY MODE
03/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

PTOL-90A (Rev. 10/06)

	Application No.	Applicant(s)
Advisory Action *Before the Filing of an Appeal Brief*	10/722,614	KARR ET AL.
	Examiner	Art Unit	
	Sheng-Jen Tsai	2186	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 February 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires _3_ months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will **not** be entered because
   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b)☐ They raise the issue of new matter (see NOTE below);
   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed *Remark* ~~amendment~~(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _1-28_.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will **not** be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will **not** be entered because the affidavit or other evidence failed to overcome **all** rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see below.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

Applicants contend that the reference (Rajan et al., US Patent Application Publication 2004/0030822) does not teach this newly added limitation because, in the invention of Rajan et al., the metadata format for the data on the storage appliance is fixed according to the requirements of the storage operating system installed on the storage appliance, and the metadata format is determined when the storage operating system is installed before any request by a host computer system to access the data. The Examiner disagrees with this assessment due to the following reasons:

First, the invention of Rajan et al. is directed toward a storage virtualization selection technique intended for a multi-protocol storage appliance to handle clients (i.e., host computers) running different types of operating systems [abstract]. Figure 1 of Rajan et al. explicitly shows two clients, one running WINDOWS operating system [figure 1, 160a] and the other running UNIX operating system [figure 1, 160b].

Second, since the host computers use different operating systems with different storage formats, these differences are reflected in the corresponding operating system metadata, as explicitly disclosed by Rajan et al. [For example, a client 160a running the Windows operating system may communicate with the storage appliance 100 using the Common Internet File System (CIFS) protocol over TCP/IP. On the other hand, a client 160b running the UNIX operating system may communicate with the multi-protocol appliance using either the Network File System (NFS) protocol over TCP/IP or the Direct Access File System (DAFS) protocol over a virtual interface (VI) transport in accordance with a remote DMA (RDMA) protocol over TCP/IP. It will be apparent to those skilled in the art that other clients running other types of operating systems may also communicate with the integrated multi-protocol storage appliance using other file access protocols (paragraph 0026)].

Third, figure 2 of Rajan et al. shows, as the Applicants observe, that both CIFS [for WINDOW operating system, see above] and NFS [for UNIX operating system, see above] are installed and made available during the installation phase. However, the determination as to which one of the CIFS and NFS should be used is made dynamically depending on which client [figure 1, 160a or 160b] initiates the access request [The storage adapter 128 cooperates with the storage operating system 200 executing on the storage appliance to access information requested by the clients (paragraph 0030)]. In other words, although the installation of both CIFS and NFS is fixed, the determination of which one to use is made dynamically.

Therefore, the Examiner's position regarding the status of claims 1, 14, 19 and 24, and those claims dependent from them, remain the same as stated in the previous Office Action.

PIERRE BATAILLE
PRIMARY EXAMINER

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